

Home and Community-Based Services (HCBS) Final Rule and Indiana's HCBS Statewide Transition Plan (STP)

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Agenda

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- Indiana's HCBS Statewide Transition Plan (STP)
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Introduction and Background of the CMS HCBS Settings Final Rule



Background

- HCBS Final Rule published January 2014, with an effective date of March 17, 2014
- Addressed HCBS setting requirements across:
 - 1915(c) waiver programs
 - 1915(k) Community First Choice programs
 - **1915(i) State Plan Amendment programs: BPHC and AMHH, as well as CMHW**



What is a Home and Community-Based Services (HCBS) Setting?

Per CMS, an HCBS setting can be any of the following:

- 1) Residential
- 2) Non-residential
- 3) Member owned/leased
- 4) Provider owned/operated
- 5) Third-party owned/operated



What is an HCBS Setting? (cont.)

- The following settings are identified by CMS as institutional, and are NOT considered home and community-based:
 - 1) Nursing facilities
 - 2) Institute for Mental Disease (IMD)
 - 3) Intermediate Care Facility for Individuals with Intellectual Disability (ICF/IID)
 - 4) Hospital
- Federal requirements apply to **all** settings in which a member may reside and/or receive services



“POCO”

An important definition and acronym:

POCO

(Provider Owned, Controlled, or Operated)

As defined by CMS, a POCO setting is a specific physical place that is owned, co-owned, and/or operated by a provider of HCBS.



Types of HCBS Settings

- Residential
 - POCO residential (group homes, etc.)
 - Non-POCO residential (homes, apartments, etc. owned or leased by an individual for their private use)
- Non-residential
 - POCO non-residential (clinics, day service sites, etc.)
 - Non-POCO non-residential (public community settings)
- Presumed Institutional (may apply to POCO and non-POCO settings, residential and non-residential settings)



POCO Residential Settings

- *POCO residential settings*, as defined by CMS, are those settings in which an individual resides that are specific physical places that are owned, co-owned, and/or operated by a provider of HCBS
- POCO residential settings are a particular emphasis of the Statewide Transition Plan



POCO Residential Settings (cont.)

- Indiana has four types of DMHA-certified residential facilities for adults:
 - 1) alternative family homes for adults (AFA)
 - 2) transitional residential living facility (TRS)
 - 3) semi-independent living facilities (SILP)
 - 4) supervised group living (SGL)
- Each of these DMHA-certified residential facilities meets the definition of a POCO residential setting



POCO Residential Settings (cont.)

Designation as a POCO residential setting is not limited to only DMHA-certified residential facilities. AMHH/BPHC providers in Indiana can own, control, or operate other types of residential settings.



“Presumed Institutional”

The HCBS Final Rule states that any setting that has any of the following three qualities of an institution does not meet the federal HCBS requirements:

- 1) Any setting that is located in a building that is also a **publicly or privately operated facility that provides inpatient institutional care** (that is, a hospital, IMD, ICF/IID, or nursing facility)
- 2) Any setting in a **building on the grounds of, or immediately adjacent to, a public institution** (defined by CMS as an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control)
- 3) Any other setting that **has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS**



“Presumed Institutional” (cont.)

- The State or other parties may present information to CMS for heightened scrutiny, to overcome the presumption and have the setting be considered home and community-based
- This applies to ALL HCBS settings



HCBS Compliance Timeline

- **Transition Period:** All existing provider owned and controlled settings (established prior to March 17, 2014) must be fully compliant with the CMS HCBS Final Rule no later than **March 17, 2019**
- **NO Transition Period:** Any new provider owned and controlled settings (established after March 17, 2014) must be fully compliant with the HCBS Final Rule before reimbursable services under a program affected by HCBS Final Rule are provided at that setting



Overall Compliance Requirement

- All members must live in an HCBS-compliant residential setting in order to receive any HCBS service, regardless of the setting where the service is delivered
- All settings in which HCBS are delivered must be compliant with federal HCBS setting requirements



Qualities of an HCBS Setting: The “Big 5”

CMS established five qualities (the “Big 5”) that apply to ALL settings

- (1) The setting is **integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community**, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS
- (2) The setting is **selected by the individual from among setting options**, including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual’s needs, preferences, and, for residential settings, resources available for room and board



Qualities of an HCBS Setting: The “Big 5” (cont.)

- (3) The setting **ensures** an individual’s rights of **privacy, dignity, and respect, and freedom from coercion and restraint**

- (4) The setting **optimizes**, but does not regiment, **individual initiative, autonomy, and independence in making life choices**, including but not limited to daily activities, physical environment, and with whom to interact

- (5) The setting **facilitates individual choice** regarding services and supports, and who provides them



Additional Required Qualities of POCO Residential Settings (the “POCO 5”)

POCO residential settings must meet additional conditions in order to be fully HCBS compliant

- (1) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a **legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants under the landlord/tenant law of the state, county, city or other designated entity**
 - A residency agreement or other form of written agreement will be in place for each HCBS participant. The written agreement must provide protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law



Additional Required Qualities of POCO Residential Settings (the “POCO 5”) – cont.

- (2) Each individual has **privacy in their sleeping or living unit**:
 - Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors
 - Individuals sharing units have a choice of roommates in that setting
 - Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement
- (3) Individuals have the **freedom and support to control their own schedules and activities**, and have access to food any time
- (4) Individuals are able to have **visitors of their choosing at any time**
- (5) The setting is **physically accessible** to the individual



Summary of HCBS Setting Requirements

- All members approved for AMHH and/or BPHC services must live in an HCBS-compliant residential setting, regardless of whether they receive HCBS in their homes
- All settings in which HCBS are delivered must be compliant with federal HCBS setting requirements
- The “Big 5” requirements apply to all settings, including non-POCO residential settings for ALL members enrolled in AMHH and/or BPHC
- POCO residential settings have additional requirements in order to be HCBS-compliant
 - Modifications to the “POCO 5” requirements may be permitted via person-centered treatment planning
- Settings which are “presumed institutional” may be reviewed under heightened scrutiny
- Indiana is implementing a Statewide Transition Plan to ensure full HCBS compliance by March 2019



Indiana's HCBS Statewide Transition Plan (STP)



Statewide Transition Plan (STP)

- The STP is required by CMS and must demonstrate how Indiana will ensure all settings where members live, and in which HCBS are delivered, will meet federal HCBS setting requirements by March 2019
- The plan must be submitted to and approved by CMS
- The plan defines activities and timelines for DMHA and provider agencies to accomplish the following:
 - 1) Identification of affected settings
 - 2) Assessment of identified settings
 - 3) Remediation planning and implementation (where required) to:
 - a) Bring settings into full compliance
 - b) Transition of members to a new setting
 - c) Transition members to non-HCBS services
 - 4) Ongoing monitoring of HCBS compliance



Transition Plan Milestones

- Initial STP submitted to CMS in December 2014
- Revised STP to be submitted April 2016
 - Includes plans and timelines for identification, assessment, and remediation of all settings
 - 30-day public comment period will precede submission
- Second revised STP to be submitted to CMS early fall 2016. This submission must include:
 - Results of site-specific assessments
 - Updated remediation plans and timelines
 - Another 30-day public comment period
- **Ongoing revisions to the plan may occur, based on public comment and CMS review and approval**



STP Strategy

- DMHA has developed four strategies for ensuring HCBS setting compliance, each specific to a type of setting:
 - 1) POCO residential
 - 2) POCO non-residential
 - 3) Non-POCO residential
 - 4) Presumed institutional
- The strategies include required steps and timelines for:
 - 1) Identification and screening
 - 2) Preliminary compliance designation and Setting Operating Authority (SOA) response
 - 3) Remediation plan (if required)



Good News

CMS considers non-POCO non-residential settings to be *de facto* compliant with HCBS setting requirements

- These are settings in the community accessible to all individuals: restaurants, stores, libraries, churches, community centers, etc.



Remediation Plans in the STP

DMHA has defined three kinds of remediation plans in the STP, each of which may be applicable to any and all setting types

- 1) HCBS Setting Action Plan
- 2) HCBS Member Transition Plan
- 3) Heightened Scrutiny Plan



HCBS Setting Action Plan

- The HCBS Setting Action Plan is designed to assist a Setting Operating Authority (SOA) to bring a setting into full HCBS compliance
 - A Setting Operating Authority (SOA) is the setting owner, landlord, property management company, CMHC, or other party with responsibility for and control over the setting
 - The SOA has final responsibility for implementing required modifications
- The plan must identify the following:
 - Qualities of the setting which are out of compliance with HCBS
 - Remediation activities which will bring the setting into full HCBS compliance
 - Timeframe and milestones for completion of remediation activities
 - Party/parties responsible for completing remediation activities



HCBS Member Transition Plan

The HCBS Member Transition Plan is designed to ensure a member's service needs will continue to be met if their residential setting is unable to become fully compliant with federal HCBS requirements, as determined by:

- 1) Decision by the provider and/or SOA that remediation will not be undertaken to bring the setting into full HCBS compliance, **or**
- 2) Decision by DMHA that a "Presumed Institutional" setting will not be reviewed via heightened scrutiny



HCBS Member Transition Plan (Cont.)

The HCBS Member Transition Plan must identify:

- 1) Qualities of the setting which are out of compliance
- 2) Decision made by the member (with input from family/friends/guardian) whether to discontinue participation in HCBS and remain in the current non-compliant residential setting **OR** to move to a fully HCBS compliant setting in order to continue to receive HCBS
- 3) Timeframe and milestones for implementing the required action based on the SOA and/or the member's decision
- 4) Party/parties responsible for assisting the member throughout the transition process



Heightened Scrutiny Plan

- DMHA will make the final determination for all settings as to whether the setting has qualities of an institution (“Presumed Institutional”)
- DMHA will make the final decision regarding whether the “Presumed Institutional” determination will be rebutted via the heightened scrutiny process
- For all settings for which the presumption will be rebutted, DMHA and the provider agency will develop a Heightened Scrutiny Plan
- The Heightened Scrutiny Plan specifies:
 - Information to be gathered in order to rebut the presumption
 - Party/parties responsible for gathering the information
 - Timeline for submission to CMS



Step 1: Identification and Screening of HCBS Settings



Identified HCBS Settings Statewide

- 164 existing POCO residential settings identified by provider self-assessment
 - Approximately 205 members enrolled in AMHH and/or BPHC live in POCO residential settings, based on January 2016 DARMHA data
- 143 existing POCO non-residential settings preliminarily identified by DMHA
 - POCO non-residential settings include outpatient clinics, day service sites, and other facilities operated by a CMHC where clinical services are delivered
 - DMHA identified these sites based on the clinic/service locations advertised on each CMHC's website
- Approximately 2,800 AMHH/BPHC members live in non-POCO residential settings, based on January 2016 DARMHA data



HCBS Residential Screening Tool

- An HCBS Residential Screening Tool will be available prior to March 10, 2016
- The tool will assist providers in identifying what kind of residential setting an AMHH or BPHC applicant is living in (POCO/non-POCO), and whether that setting is:
 - 1) Fully HCBS compliant
 - 2) Not fully HCBS compliant
 - 3) Potential Presumed Institutional



HCBS Residential Screening Tool (cont).

- The HCBS Residential Screening Tool must be completed during the application process for **every AMHH and BPHC application submitted on or after April 1, 2016**
 - **An attestation will be added** to the AMHH and BPHC applications in DARMHA, indicating that the tool has been completed with the member prior to application submission
 - A signed/dated copy of the completed **tool must be kept in the member's clinical record**, and will be reviewed during 1915(i) QA site visits beginning SFY2017



HCBS Residential Screening Tool (cont).

- AMHH and BPHC applications submitted between April 1, 2016 through June 30, 2016 for which the screening tool was not completed will be placed in “DMHA Pending” status for 7 calendar days
- This is to allow providers the opportunity to complete the HCBS Residential Screening Tool before the application is reviewed by the SET



HCBS Residential Screening Tool (cont.)

Questions are divided into four sections:

- 1) Establish whether setting has qualities of an institution
- 2) Establish whether setting is POCO or non-POCO
- 3) Establish presence of “Big 5” qualities for all settings
- 4) Establish presence of “POCO 5” qualities for POCO residential settings



Modification to AMHH and BPHC Applications in DARMHA (current view)

Current Living Situation :

Community-based Settings

- Independent Living
- Homeless
- Residential Facility
- Supported Living

Institutional Settings

- Nursing Home
- Hospital
- Institution for Mental Disease (IMD)
- ICF/IID
- Jail/Correctional Facility

Description of the Living Situation :

Describe the applicant's current living situation (as of the date of application), including the features of the housing situation that ensure it meets criteria for a home and/or community-based setting. If the applicant is currently in an institutional setting but is being discharged to the community within 90 days, please provide anticipated discharge date and expected living situation post-discharge.

lives in an assisted living (not a nursing home) community. She was required to live there by her sister, who is her guardian, after she was hospitalized three years ago due to complications from her anorexia.

Modification to AMHH and BPHC Applications in DARMHA (concept modified view – April 1, 2016)

Current Living Situation :

Community-based Settings

- Non-POCO residential setting that fully complies with HCBS requirements
- Non-POCO residential setting that does not fully comply with HCBS requirements
- POCO residential setting that fully complies with HCBS requirements
- POCO residential setting that does not fully comply with HCBS requirements
- Potential Presumed Institutional setting

Institutional Settings

- Nursing Home
- Hospital
- ICF/IID
- Institution for Mental Disease (IMD)
- Jail/Correctional Facility

Description of the Living Situation :



Modification to AMHH and BPHC Applications in DARMHA (concept modified view – April 1, 2016) (Cont.)

Current Living Situation :

Community-based Settings

- Non-POCO residential setting that does not fully comply with HCBS requirements



Select all of the following qualities that are not present at the setting:

- Is integrated in and support full access to the greater community
- Is selected by the individual from among setting options
- Ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint
- Optimizes individual initiative, autonomy, and independence in making life choices
- Facilitates individual choice regarding services and supports, and who provides them

Modification to AMHH and BPHC Applications in DARMHA (concept modified view – April 1, 2016) (Cont.)

Current Living Situation :

Community-based Settings

- POCO residential setting that does not fully comply with HCBS requirements



Select all of the following qualities that are not present at the setting:

- Be integrated in and support full access to the greater community
- Be selected by the individual from among setting options
- Ensure an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint
- Optimize individual initiative, autonomy, and independence in making life choices
- Facilitate individual choice regarding services and supports, and who provides them
- Individual does not have lease or other legally enforceable agreement
- Individual does not have privacy in their sleeping or living unit:
 - Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors
 - Individuals sharing units have a choice of roommates in that setting
 - Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement
- Individual does not have freedom and support to control their own schedules and activities, and have access to food any time
- Individual is not able to have visitors of their choosing at any time
- Setting is physically accessible to the individual

Modification to AMHH and BPHC Applications in DARMHA

(concept modified view – April 1, 2016) (Cont.)

Current Living Situation :

Community-based Settings

- Potential Presumed Institutional setting

Select all of the following institutional qualities that are present at the setting:

- Located in a building that also provides institutional care
- Located on or adjacent to a public institution
- Has the effect of isolating members receiving HCBS services



Modification to AMHH and BPHC Applications in DARMHA (draft new attestation – April 1, 2016)

The HCBS Residential Screening Tool has been completed with the applicant, and a signed copy retained in the clinical record

Date:



Screening for Presumed Institutional Qualities: POCO Residential Settings

- DMHA will screen all provider-identified POCO residential settings for institutional qualities by May 15, 2016
- All POCO residential settings which may have qualities of an institution will be designated “Potential Presumed Institutional” by DMHA, and the designation communicated to providers within 15 calendar days of the designation
- POCO residential settings designated “Potential Presumed Institutional” will be scheduled for joint DMHA/provider on-site assessments, to be completed before December 31, 2016
- Following the on-site assessment, DMHA will make the final determination as to whether the setting has institutional qualities, and communicate that determination to the provider, within 15 calendar days of the on-site assessment



Screening for Presumed Institutional Qualities: POCO Non-Residential Settings

- Provider agencies must screen their POCO non-residential settings for institutional qualities between April 1 – April 30, 2016, using the DMHA-developed “HCBS POCO Non-Residential Setting Screening Tool” (available prior to April 1, 2016)
- Any POCO non-residential setting which may have qualities of an institution will be designated “Potential Presumed Institutional” by DMHA, and scheduled for joint DMHA/provider on-site assessments before December 31, 2016
- Following the on-site assessment, DMHA will make the final determination as to whether the setting has institutional qualities, and communicate that determination to the provider, within 15 calendar days of the on-site assessment



Screening for Presumed Institutional Qualities: Non-POCO Residential Settings

- Provider agencies must screen all non-POCO residential settings, to determine the presence of institutional qualities
- Screening will be conducted by using the HCBS Residential Screening Tool (available by March 10, 2016)
 - Non-POCO residential settings which may have institutional qualities must be reported to DMHA beginning April 1, 2016
 - Reporting will occur by selecting “Potential Presumed Institutional” under “Current Living Situation” on the AMHH and BPHC applications in DARMHA, beginning April 1, 2016
- Non-POCO residential settings for which “Potential Presumed Institutional” was selected on the DARMHA application will be reviewed by the SET
- A preliminary compliance designation will be made by DMHA and communicated to the provider within 15 days of the application review



Step 2: Preliminary Compliance Determinations and Provider Response



Ensuring HCBS Setting Compliance is Site-Specific

- CMS requires Indiana to ensure that every setting in which HCBS are delivered meets federal HCBS setting requirements
- Full HCBS compliance of POCO settings (residential and non-residential) must be verified by a combination of provider self-report, resident surveys, and DMHA on-site assessments
- Full HCBS compliance of non-POCO residential settings must be verified by provider on-site assessments of a statistically valid sample of those settings
- Ongoing monitoring for HCBS setting compliance will be included with AMHH and BPHC QA site visits



Resident Surveys

- Link: <https://www.surveymonkey.com/r/9MCPNWC>
- Member-friendly format, intended to capture the resident's perceptions and experience of living at the POCO residential setting
- Providers must ensure:
 - Each resident at every POCO residential setting has an opportunity to complete the survey (regardless of whether the resident is enrolled in AMHH and/or BPHC)
 - Each resident has the opportunity to complete the survey in private
- Must be completed, electronically or on paper, by March 15, 2016
 - Electronic submissions via SurveyMonkey
 - Paper submissions must be collected and batch mailed to DMHA no later than March 18, 2016
- Resident surveys will be used to validate the results of the provider self-assessments (“provider surveys”) completed between Sep 2015 and Jan 2016



Preliminary Compliance Designations: POCO Residential Settings

Between March 15 and May 15, 2016, DMHA will crosswalk the results of the provider self-assessment and resident surveys. DMHA will look for consistency between the provider self-assessment and the resident surveys as to whether each of the 10 HCBS requirements for each POCO residential setting (the “Big 5” plus the “POCO 5”) has been met

- Requirements which are assessed as being met, and for which there is crosswalk alignment, will be considered compliant
- Requirements which are assessed as not being met, and for which there is crosswalk alignment, will be considered non-compliant
- Requirements for which there is no crosswalk alignment will be further investigated by the SET and a determination made



Preliminary Compliance Designations: POCO Residential Settings (cont.)

DMHA expects that:

- Most POCO residential settings will require remediation
- Final compliance determination will be made after remediation or opt-out decision by provider and/or SOA
- Final compliance determinations will be either "Fully Compliant" or "Unable to Fully Comply"



Preliminary Compliance Designations: POCO Residential Settings (cont.)

- DMHA will make preliminary compliance designations for all identified POCO residential settings by May 15, 2016
- DMHA will notify providers of the preliminary compliance designation no later than 15 calendar days after the designation is made (no later than May 30, 2016)
- Three preliminary compliance designations are possible:
 - 1) **“Potential Presumed Institutional”** (this designation supersedes the others)
 - 2) **“Needs Modifications”**
 - 3) **“Fully HCBS Compliant”**



Preliminary Compliance Designations: POCO Non-Residential Settings

- Between April 1 and April 30, 2016, providers must complete self-assessments on all of their POCO non-residential settings, using the forthcoming web-based “HCBS POCO Non-Residential Setting Screening Tool”
- In May 2016, DMHA will review the provider self-assessments of POCO non-residential settings, assign one of three preliminary compliance designations, and communicate the designation to the provider:
 - 1) **“Potential Presumed Institutional”** (this designation supersedes the others)
 - 2) **“Needs Modifications”**
 - 3) **“Fully HCBS Compliant”**



Preliminary Compliance Designations: Non-POCO Residential Settings

- Providers will report compliance information for all non-POCO residential settings (as determined by the HCBS Residential Screening Tool) beginning April 1, 2016 via the updated “Current Living Situation” section of the AMHH and BPHC application in DARMHA
- DMHA will make one of three preliminary compliance designations:
 - 1) **“Potential Presumed Institutional”** (this designation supersedes the others)
 - 2) **“Needs Modifications”**
 - 3) **“Fully HCBS Compliant”**
- For settings preliminarily designated as “Needs Modifications” or “Potential Presumed Institutional”, DMHA will communicate that designation to the provider within 15 calendar days of SET review of application. Providers will then initiate remediation action as required.



Resident and SOA Notification Requirement Timeframe for Providers

For all non-compliant settings (those preliminarily designated “Needs Modifications” or “Potential Presumed Institutional”), the provider must notify affected residents (and a third-party Setting Operating Authority [SOA] if one is involved) of the setting’s preliminary designation as HCBS non-compliant no later than 7 calendar days from the date of DMHA notification



Required Response: All POCO Settings with “Potential Presumed Institutional” Preliminary Non-Compliance Designation

- DMHA and provider must conduct a joint on-site assessment no later than December 31, 2016 in order to determine whether the setting has institutional qualities
- DMHA will make and communicate the following decisions within 30 calendar days of the joint on-site assessment:
 - final determination whether the setting is presumed institutional
 - if so, whether DMHA will submit evidence to rebut the presumption, or allow the presumption to stand
- If the setting is determined not to be presumed institutional, DMHA will reassign the setting to another preliminary compliance designation (Fully Compliant or Needs Modification)



Required Response: All POCO Settings with “Needs Modifications” Preliminary Non-Compliance Designation

- Provider (and SOA, if involved) must decide whether to remediate to bring the POCO setting (residential or non-residential) into full HCBS compliance and notify DMHA of the decision
- If opting to remediate, provider completes and submits to DMHA an HCBS Setting Action Plan within **30 calendar days** of DMHA notification
- If opting not to remediate, provider must collaborate with the member to complete and submit to DMHA an HCBS Member Transition Plan for each affected member at the setting within **30 calendar days** of DMHA notification



Required Response: Non-POCO Residential Settings with “Potential Presumed Institutional” Preliminary Non-Compliance Designation

- Within 45 calendar days of DMHA notification, the provider must:
 - Schedule and conduct an on-site assessment and meeting with the SOA (if involved)
 - Determine whether the setting does or does not have institutional qualities
 - Report their findings to DMHA
- DMHA will make and communicate the following decisions within 30 calendar days of the provider report:
 - final determination that the setting is presumed institutional
 - whether to rebut or accept the presumption



Required Response:
Non-POCO Residential Settings with
“Potential Presumed Institutional”
Preliminary Non-Compliance Designation
(Cont.)

- If determined not presumed institutional, setting will be re-designated “Fully Compliant” or “Needs Modifications”
- If determined “Presumed Institutional”, provider will complete and submit either a Heightened Scrutiny Plan or an HCBS Member Transition Plan, based on DMHA’s decision



Required Response: Non-POCO Settings with “Needs Modifications” Preliminary Non-Compliance Designation

- Within 45 calendar days of DMHA notification, the provider must:
 - 1) Conduct an on-site assessment and meeting with the SOA, to review the preliminary designation and ascertain the SOA’s decision whether or not to remediate to bring the setting into full HCBS compliance
 - 2) Report SOA’s decision to DMHA
 - 3) Complete and submit either:
 - HCBS SOA Setting Action Plan (if opting to remediate)
 - HCBS Member Transition Plan (if opting not to remediate)



Step 3: Remediation of Non-compliant Settings



Remediation Timeframes

- DMHA requires ALL remediation activities to be completed no later than March 2018
- **DMHA recommends that agencies establish reasonable shorter timeframes for completion of remediation activities**, based on the identified remediation which must occur at each site
- The SET will monitor ongoing remediation activities beginning with SFY2017 QA site visits



Plan Steps and Milestones for “Presumed Institutional” POCO Settings

- May 30, 2016 – screening complete and all POCO settings preliminarily designated “Potential Presumed Institutional” communicated to providers
- December 31, 2016 – all on-site assessments of “Potential Presumed Institutional” POCO settings complete
- Final determination by DMHA due to providers within 15 calendar days of on-site assessment. Determination will include:
 - Whether or not the setting is final determined “Presumed Institutional”
 - If so, whether evidence will be submitted to overcome the presumption, or the presumption will be allowed to stand



Plan Steps and Milestones for “Presumed Institutional” POCO Settings (Cont.)

- Heightened Scrutiny Plans (for rebuttals) or HCBS Member Transition Plans (for affected residents in settings which will not be rebutted) due to DMHA within **30 calendar days** of notification of final determination
- March 31, 2017 – evidence packets (for submission to CMS for heightened scrutiny) due to DMHA



Plan Steps and Milestones for “Needs Modifications” POCO Residential Settings

- January 2016 - provider self-assessments of POCO residential settings: **COMPLETED**
- March 15, 2016 – completion of HCBS Resident Surveys
- March 16 to May 15, 2016 – completion of site-specific assessments and preliminary compliance designations by DMHA
- May 30, 2016 – all preliminary compliance designation notifications made
- July 1, 2016 – HCBS Setting Action Plans (for settings opting to remediate) or HCBS Member Transition Plans (for settings opting not to remediate) due to DMHA
- March 2018 - completion of remediation activities



Modifications to the Additional Required Qualities of POCO Residential Settings

Any modification of the additional conditions for POCO residential settings must be supported by a specific assessed need and justified in the person-centered service plan!



Documenting Modifications to the Additional Required Qualities of POCO Residential Settings

The following requirements must be documented in the person-centered service plan:

- 1) Identify a specific and individualized assessed need
- 2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan
- 3) Document less intrusive methods of meeting the need that have been tried but did not work
- 4) Include a clear description of the condition that is directly proportionate to the specific assessed need
- 5) Include regular collection and review of data to measure the ongoing effectiveness of the modification
- 6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated
- 7) Include the informed consent of the individual
- 8) Include an assurance that interventions and supports will cause no harm to the individual



Plan Steps and Milestones for “Needs Modifications” POCO Non- Residential Settings

- During April 2016, providers will assess their POCO non-residential settings for HCBS compliance, using the forthcoming web-based “HCBS POCO Non-Residential Setting Screening Tool”
- May 30, 2016 – DMHA will notify providers of settings designated “Needs Modifications”
- July 1, 2016 – HCBS Setting Action Plans due to DMHA
- March 2018 – remediation complete



Plan Steps and Milestones for “Presumed Institutional” Non-POCO Residential Settings

- April 1, 2016 – identification and screening of non-POCO residential settings begins via HCBS Residential Screening Tool and DARMHA application reporting
- Further assessment and response, including heightened scrutiny or HCBS Member Transition Plan, was discussed in Step 2: Preliminary Compliance Designation and Provider Response
- For settings determined not to have institutional qualities, DMHA will re-designate those settings as “Fully HCBS Compliant” or “Needs Modifications” and the provider will initiate appropriate action



Plan Steps and Milestones for “Needs Modifications” Non-POCO Residential Settings

- April 1, 2016 – identification of non-POCO residential settings begins via:
 - implementation of HCBS Residential Screening Tool
 - Reporting via “Current Living Situation” section of AMHH/BPHC application in DARMHA
- October 1, 2016 – identification and self-assessment of “first wave” non-POCO residential settings complete
- Notification to providers of HCBS non-compliant non-POCO residential settings will be made as those settings are identified



Step 4: Ongoing Monitoring of HCBS Compliance



Ongoing HCBS Compliance Monitoring

- Beginning SFY2017 (July 1, 2016), assessment of HCBS setting compliance will be incorporated into scheduled annual (or more often) AMHH and BPHC QA site visits
- The State Evaluation Team will conduct an on-site assessment of:
 - At least one randomly selected POCO residential setting
 - At least one randomly selected POCO non-residential setting
- The SET will also be verifying inclusion of the signed and dated HCBS Residential Setting Tool in each of the randomly selected consumer clinical charts



Important Links

- CMS HCBS Final Rule website
 - <http://www.medicaid.gov/hcbs>
- FSSA Home and Community Based Final Rule page. This is where the STP and important information and updates will be posted.
 - <http://www.in.gov/fssa/4917.htm>



Glossary

- **AMHH** – Adult Mental Health Habilitation
- **BPHC** – Behavioral and Primary Healthcare Coordination
- **CMS** – Centers for Medicare & Medicaid Services
- **DARMHA** – Data Assessment Registry Mental Health and Addiction
- **HCBS** – Home and Community-Based Services
- **POCO** – Provider Owned, Controlled, or Operated
- **SET** – State Evaluation Team
- **SFY** – State Fiscal Year (July 1 - June 30)
- **SOA** – Setting Operating Authority
- **STP** – Statewide Transition Plan

